8th September 1928]

APPENDIX XIV.

[Vide item VIII at page 536 supra.]

BILL No. 11 OF 1927.

A BILL TO AMEND THE INDIAN FISHERIES ACT, 1897, IN ITS APPLICATION TO THE PRESIDENCY OF MADRAS.

Report of the Select Committee.

TO THE HONOURABLE THE LEGISLATIVE COUNCIL OF THE GOVERNOR OF MADRAS.

WE, the undersigned Members of the Select Committee appointed to consider the Bill to amend the Indian Fisheries Act, 1897, in its application to the Presidency of Madras (Bill No. 11 of 1927), have the honour to submit the following report.

2. The Bill was published in the *Fort St. George Gazette* in English on the 9th August 1927, in Tamil and Telugu on the 30th August 1927, in Malayalam, Kanarese and Hindustani on the 6th September 1927, and in Oriya on the 13th September 1927.

3. The Committee met on Friday and Saturday the 6th and 7th January 1928 and subjected the Bill to a detailed examination clause by clause and have suggested the following changes :—

Clause 3.—The Committee consider that prohibition should not apply to fishing in waters of the sea except with reference to Pearl and Chank fishery, and they also consider that when such prohibition is made, it should be done only with the consent of the Legislative Council. They have therefore suggested the addition of the following proviso at the end of the proposed sub-section :

" Provided that the prohibition shall not extend to sea fishery other than Pearl fishery or Chank fishery except by rule assented to by vote of the Legislative Council."

Clause 4.—This clause lays down only the procedure for collection of rents and does not confer on or take away from the Government any substantive right. This revenue cannot be a charge on any property as in the case of land revenue and the Committee have therefore thought it necessary to omit the proviso in the proposed new section,

[8th September 1928

4. A copy of the Bill as amended by the Committee is appended. The Committee consider it unnecessary to republish the Bill as no material alterations have been made in the Bill.

C. E. WOOD.
R. N. AROGYASWAMI MUDALIYAR.
T. R. V. SASTRI.
M. KRISHNAN NAYAR.
MAHMUD SCHAMNAD.
S. MUTHIAH.*
S. KUMARASWAMI REDDIAR.
J. A. SALDANHA.†
DANIEL THOMAS.
T. M. MOIDOO SAHIB.
S. ARPUDASWAMI UDAYAR.

* Subject to a note. † Subject to a minute of dissent.

NOTE.

I agree to the above, subject to the following additional observations.

I think the proposed proviso in clause 3 should be extended to tidal waters also. Further the sub-clause (4) intended to replace sub-clause (4) of section 6 of the Act, should be so worded to cover cases of lease or licence by private owners in case of private waters also.

S. MUTHIAH.

8th September 1928]

MINUTE OF DISSENT.

The Bill sought powers for the local Government to modify the old provision which enabled them to prohibit fishing in any waters for a period not exceeding two years by omitting this limitation of time and enabling Government to grant rights of fishing to anybody by lease or licence in accordance with such conditions as might be specified in such lease or licence. That meant that Government might parcel out any sea within territorial distance of three old miles (now perhaps ten miles) and any tidal navigable river, and lease or license the fishing right in each part to anybody to the exclusion of everybody else. The Crown, it may be assumed, has a right to a navigable river as well as a sea including the bed. But this right is to be enjoyed and exercised only as against private riparian landholders, and further is as provided for in the Madras Land Encroachments Act of 1905 "subject always to all rights of way and other *public rights*, and to all natural and easements rights of other landowners and to all customary rights legally subsisting," which is also the English law. Among these public and customary rights, must be included the public right of fishing in all tidal waters. Any encroachment as sought by Government on such public rights should, I submit, be vigorously contested and, if allowed at all, should be subjected to the closest scrutiny by the members of the Legislative Council as representatives of the public. What is desirable is that no lease or licence should be granted without the previous sanction of the Legislative Council. Government is agreeable to such a condition, except in respect of tidal rivers and pearl and chank fisheries. It is not clear why such exceptions should be allowed at all. When the Bill comes again before the Legislative Council, it is to be hoped that the Honourable Members will hotly contend for reserving the Council's right to control Government encroachment on an important public right by a lease or licence on any tidal water.

J. A. SALDANHA.

[8th September 1928

[Note.—The changes made by the Select Committee are printed in clarendon type.]

BILL No. 11 OF 1927.

A Bill to amend the Indian Fisheries Act, 1897, *in its application to the Presidency of Madras.*

(As amended by the Select Committee.)

WHEREAS it is expedient to amend the Indian Fisheries Act, 1897, in its application to the Presidency of Madras for the purposes hereinafter appearing; (IV of 1897.) Preamble.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Indian Fisheries (Madras Amendment) Act, 1927.

(2) It extends to the whole of the Presidency of Madras.

Amendment of sub-section (3) of section 6.

2. In sub-section (3) of section 6 of the Indian Fisheries Act, 1897 (hereinafter referred to as the said Act). (IV of 1897.)

(i) after the words "prohibit or regulate" the words "either permanently or for a time or for specified seasons only" shall be inserted, and

(ii) for clause (*c*) the following clause shall be substituted, namely:—

"(*c*) the dimension and kind of the contrivances to be used for taking fish generally or any specified kind of fish and the modes of using such contrivances."

Amendment of sub-section (4) of section 6.

3. For sub section (4) of section 6 of the said Act, the following sub-section shall be substituted, namely—

"(4) such rules may also prohibit all fishing in any specified water except under a lease or licence granted by Government and in accordance with such conditions as may be specified in such lease or licence:

"Provided that the prohibition shall not extend to sea-fishery other than pearl fishery or chank fishery except by rule assented to by vote of the Legislative Council."

Addition of a new section 8.

4. After section 7 of the said Act, the following section shall be added:—

"8. All rents, fees and other moneys payable to Government on account of fishery leases and licences granted by them may be recovered in like manner as if they were arrears of land revenue."